



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

 AMERICAN FEDERATION OF STATE, COUNTY AND
 MUNICIPAL EMPLOYEES, COUNCIL 68 and
 CONWAY POLICE DEPARTMENT

 Petitioner

 vs.

 TOWN OF CONWAY

 Respondent

CASE NO. A-0511
DECISION NO. 85-05

APPEARANCES

Representing American Federation of State, County and Municipal Employees, Council 68 and Conway Police Department

Edward Edwards, Council Representative

Representing the Town of Conway

Alan Hall, Esq., Counsel
Paul Hutchins, Commissioner

Also in Attendance

William R. Scaletti, Chief of Police
Paula Foster, Town of Conway
David G. Bennett, Police Department
Robert J. Mullen, Police Department

BACKGROUND

American Federation of State, County and Municipal Employees, Council 68, on October 17, 1984, filed a petition for the certification of a bargaining unit composed of "all full-time and part-time employees of the Conway Police Department", specifically including Sergeants, Detectives, Patrolmen, Dispatchers and Secretary/Clerk Typist but excluding the Chief of Police and Lieutenants.

The Town filed exceptions to the petition, arguing that the Sergeants were supervisory personnel, under RSA 273-A:8, II, and should therefore be excluded. The Town also argued that the position of Secretary/Clerk Typist is one of a confidential nature, including labor relations, and should therefore be excluded from the unit (just prior to the start of the hearing, the Town and the union agreed on the exclusion of the Secretary/Clerk Typist).

A hearing was held on the petition on January 10, 1985, at the Public Employees Labor Relations Board's office in Concord, New Hampshire with all parties represented.

FINDINGS OF FACT AND RULINGS OF LAW

At the hearing, the Town's many exhibits as well as testimony established that the Town had made extensive efforts since 1980 (the last time a petition was filed) to include the sergeants as part of the managerial team of the Conway Police Department. The efforts, outlined in the police manual, actually became effective in the fall of 1980, and established interalia the following duties and activities for sergeants:

Sergeants would be in charge of the department at night and on weekends and anytime the chief and lieutenant(s) were absent;

Sergeants supervise the patrolmen on all shifts;

Sergeants can call out detectives, special police or patrolmen, as needed;

Sergeants take part in hiring, interviews; make hiring, promotion and salary recommendations (which are usually followed);

Sergeants attend staff meetings with lieutenant and chief, bi-weekly or monthly to discuss department, including "labor relations";

Sergeants make discipline recommendations and, under certain circumstances, may actually discipline patrolmen, approve overtime as necessary;

Sergeants are not part of the budget process of the department, although may participate in some policy formulation;

Sergeants are expected to notify chief/lieutenant if any "serious" event occurs on their shift.

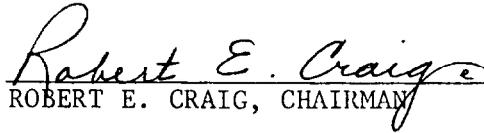
The sergeants are clearly the supervisors of the patrolmen and in their capacity as shift commanders at night and on weekends clearly have supervisory authority and have been included as part of the management of the department including the "...significant exercise of discretion"... (RSA 273-A:8, II) and therefore should not be in the same unit as the patrolmen and others.

DECISION AND ORDER

The following unit is hereby created:

All full-time and part-time patrolmen, detectives and dispatchers of the Conway Police Department. Excluded from the unit: Chief, Lieutenant, Sergeants and the Secretary/Clerk Typist.

An election will be held at the earliest convenient time and date.


ROBERT E. CRAIG, CHAIRMAN

Signed this 18th day of January 1985.

Chairman Robert E. Craig and member Robert D. Steele voting in favor. Member Russell Verney voting for inclusion of sergeants. Also present, Evelyn C. LeBrun, Executive Director.